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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,446	08/20/2003	Kevin Inget	03-112	7983

7590 12/01/2005

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EXAMINER

HONG, JOHN C

ART UNIT PAPER NUMBER

3726

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/645,446

Applicant(s)

INGET ET AL.

Examiner

Marc Jimenez

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Priority*

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. [1] as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 10/355,816 and 09/772,117, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. In claim 6 of the instant application, a method of making a welding helmet including the limitations of preparing a mold for molding the welding helmet having a reverse structure of an animal skull facial features, which animal skull facial features include a nose feature and a mouth feature and in which there is an area for receiving a welding helmet lens in the area that would otherwise contain eye facial features, molding a plastic material in the mold to create a welding helmet having the animal skull facial features on the exterior, and fitting a welding helmet lens to the welding helmet in the area for receiving a welding helmet lens is not described in parent cases 10/355,816 and 09/772,117.

Art Unit: 3726

Parent cases 10/355,816 and 09/772,117 have been reviewed by the examiner, however, there is no disclosure of a method of making the welding helmet including the features of claim 6 of the instant application.

2. This application repeats a substantial portion of prior Application No. 10/355,816 and 09/772,117, filed 1/30/03 and 1/26/01 respectively, and adds and claims additional disclosure not presented in the prior application. Since this application names an inventor or inventors named in the prior application, it may constitute a continuation-in-part of the prior application. Should applicant desire to obtain the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120 and 37 CFR 1.78. Since the instant invention, claims additional disclosure not presented in the prior application, it is therefore a CIP rather than a continuation application. Therefore, the effective filing date of the instant application is 8/20/03.

#### ***Election/Restrictions***

3. Applicant's election without traverse of Species B in the reply filed on 9/14/05 is acknowledged. Applicant has canceled the non-elected claims.

#### ***Drawings***

4. Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not

Art Unit: 3726

accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.


***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 6 and 11-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Stein et al. (US5029342).

In figures 1-2, Stein et al. teach a welding helmet having an animal skull facial features including a nose feature (in figure 2, there is an opening to receive lenses **15,12**, the opening, is in effect a “nose feature” of an animal “skull” because a skull has a cavity where the nose is) <sup>a</sup> ~~an~~  mouth feature (in figure 2, note the protrusion **16** which is considered a “mouth” feature since some animals have protruding mouths) and in which there is an area for receiving a welding helmet lens **14** in the area that would otherwise contain eye facial features. It is inherent that the welding helmet shown in figure 2 is molded using a mold having a reverse structure of an animal skull facial features because as seen by the cross section of the helmet **10** it is made of plastic. The helmet would clearly have to be molded to obtain the shape shown in figure 2. Alternatively, official notice is taken that it was known to a person of ordinary skill in the art, at the time of the invention, to have molded the welding helmet of Stein et al., in order to create the desired

Art Unit: 3726

contours of the welding helmet. Note that welding helmet lens **14 or 13** is fitted (col. 4, lines 45-46). Regarding claim 11, the animal skull facial feature include mammalian facial features (the cross section of the helmet shown in figure 2 has eye, nose and mouth features like a mammalian). Regarding claim 12, the animal skull facial features include human facial features because cross section of the helmet shown in figure 2 has eye, nose and mouth features like a human. Regarding claim 13, the skull facial features include non-human facial features such as the head portion 10 which does not look like a human facial feature.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 6, 11 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson et al. (Des. 425,260) in view of Johnson et al. (US 5,896,579).

Robinson et al. teach in figures 1-6, a welding helmet having an animal skull facial features including a nose feature, mouth feature and an area for receiving a welding helmet lens in the area that would otherwise contain eye facial features. The animal skull facial features could be considered mammalian and include human facial features.

However, Robinson et al. do not specifically disclose preparing a mold for molding having a reverse structure of the animal skull facial features.

Art Unit: 3726

Johnson et al. teach that it is known to mold welding helmets (col. 4, line 14). It is inherent with molds to have a reverse structure of the features and contours to be molded.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Robinson et al. with a mold for molding having a reverse structure of the animal skull facial features, in light of the teachings of Johnson et al., in order to create the desired contours of the welding helmet.

9. **Claims 6, 11 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson et al. (Des. 426,350) in view of Johnson et al. (US 5,896,579).

Robinson et al. teach in figures 1-5, a welding helmet having an animal skull facial features including a nose feature, mouth feature and an area for receiving a welding helmet lens in the area that would otherwise contain eye facial features. The animal skull facial features could be considered mammalian and include non-human facial features.

However, Robinson et al. do not specifically disclose preparing a mold for molding having a reverse structure of the animal skull facial features.

Johnson et al. teach that it is known to mold welding helmets (col. 4, line 14). It is inherent with molds to have a reverse structure of the features and contours to be molded.

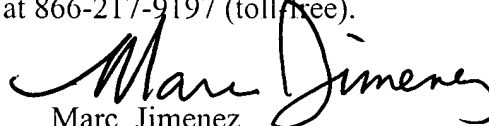
Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Robinson et al. with a mold for molding having a reverse structure of the animal skull facial features, in light of the teachings of Johnson et al., in order to create the desired contours of the welding helmet.

Art Unit: 3726

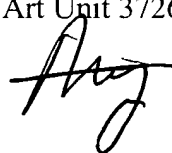
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is (571) 272-4530. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



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Art Unit 3726



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11/25/05